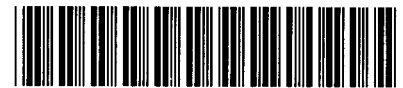


OPEN MEETING ITEM



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COMMISSIONERS
MIKE GLEASON - Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

ORIGINAL



ARIZONA CORPORATION COMMISSION

22

DATE: JULY 9, 2007

DOCKET NO: W-01445A-07-0018

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Jane Rodda. The recommendation has been filed in the form of an Opinion and Order on:

ARIZONA WATER COMPANY (CC&N EXTENSION)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

JULY 18, 2007

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

JULY 24, 2007 AND JULY 25, 2007

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 MIKE GLEASON, Chairman
4 WILLIAM A. MUNDELL
5 JEFF HATCH-MILLER
6 KRISTIN K. MAYES
7 GARY PIERCE

8 IN THE MATTER OF THE APPLICATION OF
9 ARIZONA WATER COMPANY FOR AN
10 EXTENSION OF ITS CERTIFICATE OF
11 CONVENIENCE AND NECESSITY IN COCHISE
12 COUNTY, ARIZONA.

DOCKET NO. W-01445A-07-0018

DECISION NO. _____

OPINION AND ORDER

13 DATE OF HEARING:

June 19, 2007

14 PLACE OF HEARING:

Tucson, Arizona

15 ADMINISTRATIVE LAW JUDGE:

Jane L. Rodda

16 APPEARANCES:

Mr. Robert W. Geake, Vice President and
General Counsel, Arizona Water
Company; and

Ms. Robin Mitchell, Staff Attorney,
Legal Division, on behalf of the Utilities
Division of the Arizona Corporation
Commission.

17 **BY THE COMMISSION:**

18 * * * * *

19 Having considered the entire record herein and being fully advised in the premises, the
20 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

21 **FINDINGS OF FACT**

22
23 1. On January 11, 2007, Arizona Water Company ("AWC" or "Company") filed with the
24 Commission an Application for an Extension of its Certificate of Convenience and Necessity ("CCN"
25 or "Certificate") in Cochise County.

26 2. On February 12, 2007, the Commission's Utilities Division Staff ("Staff") notified the
27 Company that its application was not sufficient pursuant to the Arizona Administrative Code.

28 3. On February 21, 2007, AWC responded to Staff's Insufficiency Letter.

1 4. On March 2, 2007, Staff filed a Second Insufficiency Letter.

2 5. On March 8, 2007, AWC filed a Response to the Second Insufficiency Letter.

3 6. On March 28, 2007, Staff notified AWC that its Application was sufficient pursuant to
4 the Arizona Administrative Code.

5 7. By Procedural Order dated April 2, 2007, the matter was set for hearing and
6 procedural guidelines established.

7 8. On May 3, 2007, AWC filed a Certificate of Notice indicating that it published notice
8 of the hearing as directed in the April 2, 2007 Procedural Order. In addition, in conformance with the
9 Procedural Order, AWC mailed notice to the property owner of the extension area.

10 9. On June 1, 2007, Staff filed its Staff Report, recommending approval of the
11 application.

12 10. The hearing convened as scheduled on June 19, 2007, before a duly authorized
13 Administrative Law Judge. Mr. Michael Whitehead, AWC's Vice President of Engineering, testified
14 for the Company. Ms. Blessing Chukwu testified for Staff.

15 11. AWC is an Arizona Corporation engaged in providing water utility service to
16 customers in various portions of Cochise, Coconino, Gila, Maricopa, Navajo, Pima, Pinal and
17 Yavapai Counties, in Arizona. The Company is a wholly-owned subsidiary of Utility Investment
18 Company, which is a wholly-owned subsidiary of United Resources, Inc. AWC provides water
19 utility service to approximately 102,650 customers in Arizona in 18 water systems in three groups:
20 Northern, Eastern and Western.

21 12. AWC serves most of the City of Sierra Vista ("City") in Cochise County.

22 13. By this application, AWC seeks authority to extend its service territory to include a
23 parcel of land that is owned by the City. The requested extension area is approximately one square
24 mile in area and is contiguous to AWC's existing service area, which is approximately 4 ½ square
25 miles. A copy of the legal description of the proposed extension area is attached hereto as Exhibit A,
26 and incorporated herein by reference. The extension area will included an existing wastewater
27 treatment facility and a proposed animal control facility. The extension area is within the city limits
28 of Sierra Vista.

1 14. The City's wastewater treatment plant is located with in the extension area. AWC has
2 served the treatment plant on a continuous basis since 1980, pursuant to A.R.S. § 40-281(B), which
3 allows public service corporations to serve customers on parcels contiguous to their certificated
4 service areas.

5 15. In a letter from the City to AWS dated November 2, 2006, the City indicated that it did
6 not realize that the wastewater treatment plant was not within AWC's certificated area. By its letter,
7 the City requested to be included within AWC's certificated area. The City plans to build a new
8 animal control facility within the next year.

9 16. AWC's Sierra Vista system has eight wells producing over 2,150 gallons per minute,
10 over 15 million gallons of storage capacity and a distribution system serving approximately 2,850
11 service connections. Within the next five years, AWC anticipates two customers within the extension
12 area. The City estimates the animal control facility will consume 2,667 gallons per day of water.
13 Based on the existing well production and storage capacities, Staff believes that the system has
14 adequate capacity to serve the existing and proposed service connections.

15 17. No major construction is required to serve the extension area because the Company is
16 already operating in the area. The Company only needs to install a 2-inch service meter to deliver
17 water to the animal control facility. The Company will require the customer to install a backflow
18 prevention device as a condition of service.

19 18. The City will provide wastewater treatment service to the requested area.

20 19. The Arizona Department of Environmental Quality ("ADEQ") regulates the water
21 system under ADEQ Public Water System I.D. No. 02-004. Based on ADEQ compliance status
22 report dated January 25, 2007, the system has no deficiencies and ADEQ has determined that this
23 system is currently delivering water that meets water quality standards required by Arizona
24 Administrative Code, title 18, chapter 4.

25 20. The Company's Sierra Vista system is not located within any Active Management
26 Area ("AMA") and is in compliance with its reporting and conservation requirements.

27 21. According to the Utilities Division Compliance Section, AWC has no outstanding
28 Commission compliance issues. The Company is in good standing with the Commission's

1 Corporations Division.

2 22. The U.S. Environmental Protection Agency ("EPA") has reduced the arsenic
3 maximum contaminant level ("MCL") in drinking water from 50 micrograms per liter ("µg/l") to 10
4 µg/l. The date for compliance with the new MCL was January 23, 2006. Based on recent lab results
5 AWC's system is in compliance with the new arsenic standards.

6 23. AWC has a Curtailment Plan Tariff ("CPT") for "All Service Areas" that was
7 approved in Decision No. 66235 (July 23, 2004).

8 24. AWC has a cross-connection tariff for "All Service Areas" that was approved in
9 Decision No. 57638 (November 26, 1991).

10 25. AWC has proposed to provide water utility service to the extension area under its
11 existing authorized rates and charges.

12 26. Every applicant for a CC&N or CC&N extension is required to submit evidence
13 showing that the applicant has received the consent, franchise or permit from the proper authority,
14 pursuant to A.R.S. § 40-282(B). In an unincorporated area, the company obtains the franchise from
15 the county. In an incorporated area, the company obtains the franchise from the City or Town. In
16 this case, Staff finds that the letter from the City requesting service indicates that the Company has
17 the consent of the City to install and maintain facilities to serve the extension area.

18 27. Furthermore, Mr. Whitehead testified that the City of Sierra Vista has never issued a
19 blanket franchise to AWC, but issues permits as needed for AWC to use the city streets and rights of
20 way to operate and maintain its facilities.

21 28. Staff recommends the Commission approve AWC's application for extension of its
22 existing CC&N to provide water service in Cochise County subject to AWC charging its authorized
23 rates and charges in the extension area.

24 29. Because an allowance for the property tax expense of AWC is included in the
25 Company's rates and will be collected from its customers, the Commission seeks assurances from the
26 Company that any taxes collected from ratepayers have been remitted to the appropriate taxing
27 authority. It has come to the Commission's attention that a number of water companies have been
28 unwilling or unable to fulfill their obligation to pay the taxes that were collected from ratepayers,

1 some for as many as twenty years. It is reasonable, therefore, that as a preventive measure AWC
2 should annually file, as part of its annual report, an affidavit with the Utilities Division attesting that
3 the Company is current in paying its property taxes in Arizona.

4 30. Although it appears that no golf course is planned for the requested extension areas,
5 given the recent drought conditions in the state, we believe it is reasonable to include a prohibition on
6 AWC from providing ground water for the irrigation of golf courses, artificial lakes or other water
7 features within the extension area.

8 CONCLUSIONS OF LAW

9 1. AWC is a public service corporation within the meaning of Article XV of the Arizona
10 Constitution and A.R.S. §§ 40-281 and 40-282.

11 2. The Commission has jurisdiction over AWC and the subject matter of the application.

12 3. Notice of the application was provided in accordance with law.

13 4. There is a public need and necessity for water service in the proposed extension area
14 as set forth in Exhibit A.

15 5. AWC is a fit and proper entity to receive a CC&N to provide water service in the
16 proposed extension area.

17 6. Staff's recommendations as set forth herein are reasonable and should be adopted.

18 ORDER

19 IT IS THEREFORE ORDERED that the application of Arizona Water Company for an
20 extension of its Certificate of Convenience and Necessity to provide water service in Cochise County
21 as described in Exhibit A hereto, is approved.

22 IT IS FURTHER ORDERED that Arizona Water Company shall charge its existing rates and
23 charges within the approved extension area.

24 IT IS FURTHER ORDERED that Arizona Water Company shall annually file as part of its
25 annual report, an affidavit with the Utilities Division attesting that the Company is current in paying
26 its property taxes in Arizona.

27 IT IS FURTHER ORDERED that in light of the on-going drought conditions in Arizona and
28 the need to conserve groundwater, Arizona Water Company is prohibited from selling groundwater

1 for the purpose of irrigating any golf course, or any ornamental lakes or water features located in the
2 common areas of the certificated expansion area.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
5

6 CHAIRMAN _____ COMMISSIONER _____

7
8
9 COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER _____

10 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
11 Director of the Arizona Corporation Commission, have
12 hereunto set my hand and caused the official seal of the
13 Commission to be affixed at the Capitol, in the City of Phoenix,
14 this ____ day of _____, 2007.

15 _____
16 BRIAN C. McNEIL
17 EXECUTIVE DIRECTOR

18 DISSENT _____

19 DISSENT _____
20
21
22
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26
27
28

SERVICE LIST FOR:

ARIZONA WATER COMPANY

DOCKET NO.:

W-01445A-07-0018

Robert W. Geake
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Mr. Ernest Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

EXHIBIT A

All of Section 34, Township 21 South, Range 21 East of the Gila and Salt River Base and Meridian,
Cochise County, Arizona.